

ORDINANCE # 04-20

PROPOSED ORDINANCE # 04-21

**AN ORDINANCE TO AMEND AND RESTATE ORDINANCE # 03-11
ORIGINALLY ENACTED ON THE 8th DAY OF MAY, 2003
WHICH AMENDED CHAPTER 5, BUILDING AND BUILDING REGULATIONS, OF
THE CODE OF THE CITY OF WILLIAMSBURG, BY ADDING ARTICLE VII,
REGISTRATION AND INSPECTION OF RENTAL DWELLING UNITS**

WHEREAS, on the 8th day of May, 2003 Williamsburg City Council enacted Ordinance #03-11 which amended Chapter 5 of building and building regulations of the Williamsburg Code by adding Article VII providing for registration and inspection of rental dwelling units in certain areas of the city; and

WHEREAS, pursuant to Code of Virginia (1950), as amended, Section 36-105, the city created certain conservation districts, wherein the city was authorized to inspect residential rental dwelling units for the purposes of protecting public health, safety and welfare within said districts, and issue certificates of compliance for rental properties located therein; and

WHEREAS, said districts, known as "District 1 - Richmond Road Area", "District 2 - Jamestown Road Area", "District 3 - Capitol Landing Road and Page Street Area" and "District 4 - York Street Area" were established by city council based on findings that there is a need to protect and maintain decent and sanitary living conditions for tenants and other residents within such districts, and

WHEREAS, city council's findings were based more particularly upon consideration of a number of factors, all of which did not have to apply in each district, which factors included: a high proportion of rental units to total units; age of buildings and structures; high levels of complaints and/or history of code compliance violations; a history of excess trash, litter, and debris; proximity to the College of William & Mary and the restored area of Colonial Williamsburg; large numbers of nonconforming uses; a history of residential structures that lack facilities that provide the minimum levels of health, safety and welfare to the occupants; overcrowding conditions; and the need to prevent further deterioration of existing residential buildings, and

WHEREAS, at its 2004 session, the General Assembly has enacted HB 828, codified as §36-105.1 of the Virginia Code, which confirms the authority of the city to inspect residential rental dwelling units, but amends the process and procedure of obtaining and conducting said inspections; and

WHEREAS, city council finds that inspections conducted to date under the rental inspection program implemented under Ordinance 03-11 have confirmed the necessity of such a program to protect the health safety and welfare of the residents of the residential rental units located in the aforesaid districts, and further to prevent deterioration and blight in the districts; and

WHEREFORE, changes must be made to Article VII of Chapter 5 of the Williamsburg Code to comply with Code of Virginia Section 36-105.1;

NOW, THEREFORE, BE IT ORDAINED that Article VII, Registration and Inspection of Rental Dwelling Units Chapter 5, Buildings and Building Regulations, of the Code of the City of Williamsburg, Virginia, is hereby amended and restated to read as follows:

CHAPTER 5 BUILDING AND BUILDING REGULATIONS

Article VII. IDENTIFICATION AND INSPECTION OF RENTAL DWELLING UNITS

DIVISION 1. GENERALLY

Sec. 5-221. Purpose and Intent.

This article is hereby amended and restated so as to bring it into compliance with Code of Virginia (1950), as amended, §36-105.1.

Sec. 5-222. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Codes Compliance Administrator means the administrator of the Codes Compliance Division of the Planning Department and his technical assistants who are employees of such Division.

Dwelling unit means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household. The term “dwelling unit” shall not include hospitals, nursing homes, convalescent homes or similar facilities providing medical care to the aged, infirm or disabled.

Residential rental dwelling unit means a dwelling unit that is leased or rented to one or more tenants month to month or for any period in excess of thirty (30) days including, but not limited to, condominiums, manufactured or mobile homes, single-family detached dwellings, duplex dwellings, townhouse dwellings or multifamily dwellings (which shall include efficiency apartments and condominiums). However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom, unless otherwise provided in the zoning ordinance by the local governing body.

Multiple-Family Complex means any structure, consisting of 10 or more dwelling units under common ownership and occupied for valuable consideration. The term “multiple-family complex” shall not include mobile homes under common ownership in a

mobile home park or subdivision; nor shall such term include single-family detached dwellings, duplex dwellings, or townhouse dwellings under common ownership.

Owner means the person or entity shown on the current real estate assessment books or current real estate assessment records of the City or the fee simple titleholder of the property if ownership has changed since such tax assessment records were last updated.

Conditions which immediately affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit include items that violate fire safety; lack of or poor condition of sanitary facilities; absence of adequate heating systems or equipment; items which affect the safe operation of electrical and mechanical systems; items which affect structural integrity of the building and/or the ability of the building envelope to keep out weather, or one or more other conditions that if not corrected would be reasonably expected to become conditions that affect the safe, decent and sanitary living conditions of the occupants.

Disqualifying Violation includes those conditions which affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit, or other conditions that violate the provisions of the Virginia Uniform Statewide Building Code, or multiple building code violations that indicate in their totality that the dwelling unit is not being properly maintained.

Sec. 5-222-5-230. Reserved.

DIVISION 2. RENTAL INSPECTION DISTRICTS

Sec. 5-231. Factors for Establishing Rental Inspection Districts.

After holding a duly advertised public hearing as required by §36-105.1 C1 of the Code of Virginia, city council finds that within the inspection districts described in Section 5-232 herein below (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection districts;

(ii) the residential rental dwelling units within the designated rental inspection districts are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in the need of inspection by the code compliance administrator to prevent deterioration, taking into account the number, age and condition of residential dwelling rental units inside said rental inspection districts, and (iii) the inspection of residential rental dwelling units inside the rental inspection districts is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the rental inspection districts.

Sec. 5-232. Rental Inspection Districts Established.

Based upon the findings of city council as set forth in Section 5-231 hereinabove, the following areas are included and hereby declared to be rental inspection districts

which are subject to the requirements of this article:

District 1 - Richmond Road Area, including the Richmond Road Corridor from Monticello Avenue to the Intersection of Richmond Road, Jamestown Road and Boundary Street. This area also includes downtown residential districts centered on Scotland Street from Richmond Road to Nassau Street.

District 2 - Jamestown Road Area, including residential areas from Lake Matoaka to College Corner, including areas on the west side of South Henry Street from Ireland Street to Mimosa Drive.

District 3 - Capitol Landing Road and Page Street Area, including residential areas along Capitol Landing Road and Page Street from the CSX Railroad property to the Colonial Parkway.

District 4 - York Street Area, including all residential areas along York Street.

A map showing the rental inspection districts described in Section 5-232 is hereby adopted as a part of this article, and shall be available for public inspection in the codes compliance office. Said districts are hereinafter referred to collectively as "inspection districts" and individually as "inspection district."

Sec. 5-233. Applicability.

The provisions of this article shall apply to residential rental dwelling units located within the districts identified in Section 5-232 of this article and shall further apply to certain structures located outside of such districts but meeting the requirements of 5-242(c) herein below.

Sec. 5-234-5-240. Reserved.

DIVISION 3. NOTIFICATION AND INSPECTION.

Sec. 5-241. Notification.

(a) Not later than August 31, 2004, the code compliance office shall give written notice by personal delivery or first class U.S. mail to all property owners located within the inspection districts of the requirement to notify the code compliance office of any real property of the owner located in an inspection district that is a residential rental property as defined hereinabove. The mailing of said notice by the code compliance administrator shall be deemed sufficient notice for purposes of this Article.

(b) The owner of any residential rental dwelling unit located within an inspection district shall notify the codes compliance office in writing no later than 60 days of the implementation date of this revised article, October 29, 2004, that said property is a residential rental dwelling unit. Such notice and information shall be submitted on a form provided by the code compliance office. The form shall require the following information:

(1) Address of the residential rental dwelling unit.
(2) The name(s) of each owner of the residential rental dwelling unit and the street address (es) of the primary residence of each owner of the residential rental dwelling unit.

(3) The name and street address of any responsible party or designee other than the owner.

(c) Within thirty (30) days of giving the notification required under section 5-241 (b), the owner shall contact the city code compliance office and arrange for an initial inspection of the residential rental dwelling unit by the codes compliance administrator.

(d) The owner of any residential rental unit located in an inspection district shall within thirty (30) days of title transfer, notify the code compliance office of any change of ownership of the residential rental dwelling unit.

(e) Any owner who fails to timely give any notice as required by this section shall be in violation of this article and shall be subject to such penalties and enforcement remedies as provided in section 5-268 herein below. However, failure to give timely notice in accordance with paragraph ((b) of this section shall not be deemed a violation if the code enforcement office has not complied with paragraph (a) of this section.

Sec. 5-242. Inspection and Certificate Required.

(a) The owner of each residential rental dwelling unit located in an inspection district shall obtain and permit an initial inspection and subsequent inspections of such residential rental dwelling unit as provided in this Section and Section 5-243. Inspections under this article shall be conducted by the city's code compliance administrator who is charged with the enforcement of this article. If the unit to be inspected is occupied at the time of a required inspection, it shall be the duty of the owner thereof to notify the occupants of such inspection and make the residential rental dwelling unit available for inspection.

(b) If inspection reveals that a residential rental dwelling unit has no disqualifying violations, the codes compliance administrator shall issue a 48 month certificate of compliance for such unit. However, if one or more violations of the property maintenance provisions of the Building Code are found that do not constitute a disqualifying violation, the existence of such non-disqualifying violations shall be noted on the 48 month certificate of compliance together with the date by which such non-disqualifying violations must be remedied, which date shall be determined by the code compliance administrator and which date shall be reasonable. The issuance of a certificate of compliance shall not be evidence of a lack of any and all building code violations, and shall not prevent the codes compliance administrator from conducting follow-up inspections regarding building code violations in the residential rental unit, whether or not the violations affect the safe decent and sanity occupancy of said unit. If a follow-up inspection reveals that the owner has failed to remedy the noted violations by specified date, the codes compliance administrator shall issue a notice of violation, revoke the 48 month certificate of compliance and the unit shall thereafter be subject to

annual inspections pursuant to Section 5-243.

(c) If inspection of a residential rental dwelling unit reveals one or more disqualifying violations, the code compliance administrator shall not issue a certificate of compliance until the disqualifying violations are satisfactorily remedied. However, the code compliance administrator may issue a temporary certificate of compliance if in the opinion of the codes compliance administrator's, such disqualifying violations do not constitute an immediate threat of injury to the occupants of such residential rental dwelling unit. If conditions warrant, however, the code compliance administrator may require that the residential rental dwelling unit be vacated or remain unoccupied until brought into compliance, pursuant to his authority under Code of Virginia, (1950), as amended, §36-98, et.seq., the Virginia Uniform Statewide Building Code. Upon compliance, the code compliance administrator shall, as provided in Section 5-243 of this article, issue an annual certificate of compliance.

(d) No annual inspection pursuant to this article shall take place more than one time each year, calculated from the date of the first inspection, should additional inspections be necessary to achieve compliance. However, nothing in this article shall modify the authority of the code compliance administrator to conduct any other inspections, as allowed under the provisions of the Virginia Uniform Statewide Building Code, and inspections for obtaining a certificate of compliance under this article do not supplant or preclude any other inspection authorized under the Virginia Uniform Statewide Building Code.

(e) Unless a current certificate or temporary certificate of compliance is in force for a residential rental dwelling unit is in force in accordance with the provisions of Section 5-243(a)(1) of this article, and such certificate remains in effect, no owner of such unit shall permit any person to occupy such unit as a tenant or otherwise.

(f) A building or structure meeting the definition of a residential rental dwelling unit but located outside of an inspection district shall nevertheless be subject to the terms of this article on the following basis: City Council makes a separate finding for said individual residential rental dwelling unit that (i) there is a need to protect the public health,welfare and safety of the occupants of that individual residential rental dwelling unit; (ii) the individual residential rental dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the Building Code that affect the safe, decent and sanitary living conditions for occupants of such individual residential rental dwelling unit. Upon said finding by the City Council, said residential rental dwelling unit shall be subject to this article, notwithstanding its location outside the inspection districts.

(g) Should the owner fail to timely contact the code compliance office within the required time in order to schedule any inspection required under this article, or should such owner fail to allow such inspection to proceed on the date for which it was scheduled, the owner shall be in violation of this article and shall be subject to such penalties and enforcement remedies as provided in section 5-268 herein below.

Sec. 5-243. Certificates of Compliance; Applications and Exemptions.

(a) The following shall apply to all residential rental dwelling units located within inspection districts, which are not exempted under 5-243(b). However, a residential rental dwelling unit for which a current certificate of compliance has been issued prior to August 23, 2004, shall not be subject to further inspection under this article for a period of 48 consecutive months from the month next following the month of issuance of such pre-existing certificate of compliance; provided however, that during such period the pre-existing certificates of compliance shall be subject to revocation and upon first to occur of revocation or expiration of the 48 month period such unit shall be subject to reinspection on the same basis as a 48-month certificate of compliance issued under section (a)(3) of this section. A temporary certificate of compliance issued under Section 5-242 shall not qualify as a pre-existing certificate of compliance if issued prior to August 23, 2004.

(1) The initial inspection of each residential rental dwelling unit which is subject to inspection under this article unless the initial inspection is delayed under paragraph (a) of this section, shall take place no later than 120 days from the date that the owner thereof contacts the code compliance office to schedule such inspection. However, should the owner of a residential rental dwelling unit which is subject to inspection under this article, fail to give timely notice as required by section 5-241, the codes compliance administrator shall inspect such unit within a reasonable time of becoming aware of such unit. Each residential rental unit for which a certificate of compliance or 48-month certificate of compliance as described in (a)(3) below has been issued shall be again inspected within 30

days from the expiration certificate or expiration or earlier revocation of a 48-month certificate of compliance.

Prior to expiration of the certificate of compliance or 48-month certificate of compliance, or upon earlier revocation of a 48-month certificate of compliance, the owner of the residential rental dwelling unit covered thereby shall contact the code compliance office and arrange for an inspection of such unit. Except in the case of an inspection following revocation of a 48-month certificate of compliance, should the date scheduled for inspection be after expiration of the current certificate and more than thirty days from the day on which the owner contacted the code enforcement office to schedule inspection, a thirty-day temporary certificate of compliance shall be issued. Said inspection shall take place no later than 30 days from the date of application for said inspection, and such temporary certificate shall expire on the date of the inspection.

As to Building Code violations which do not immediately affect the safe, decent and sanitary living conditions for persons living in such unit, and provided that all inspection fees shall have been remitted in advance to the issuance of such temporary certificate of compliance the code enforcement administrator shall issue one temporary certificate of compliance, valid for thirty (30) days and may permit such extensions thereof, as the code enforcement administrator shall deem reasonably necessary to

allow for remediation of the violations. However as to Building Code violations which are disqualifying violations and which violations which pose an immediate threat to the safe, decent and sanitary living conditions for persons living in such unit, then the code enforcement officer shall not issue a temporary certificate of occupancy.

Temporary certificates of compliance shall expire upon the earlier of their stated expiration date or the completion of an inspection which finds all violations satisfactorily remedied.

(2) Unless a residential rental unit in an inspection district is exempted from inspection under this article, or receives a 48-month certificate of compliance as provided section (a) below, the term of a certificate of compliance issued for any residential rental dwelling unit in an inspection district, shall be for a term of twelve (12) months beginning with the first day of the month next following the month of issuance.

(3) A residential rental dwelling unit which upon inspection under this article reveals no disqualifying violations, or with only one or more violations of such Code that do not affect the safe, decent and sanitary living conditions for persons living in such unit, shall not be subject to further annual inspection under this article for forty-eight (48) months from date of such annual inspection, except as provided in Section 5-242, and a 48-month certificate of compliance shall be issued for such unit. However, if a residential rental dwelling unit covered by a 48-month certificate of compliance is found in violation of the Uniform Statewide Building Code during the term of such 48-month certificate of compliance, the code enforcement administrator may revoke such 48-month certificate of compliance and such unit shall thereupon become subject to annual inspections and the issuance of annual certificates of compliance. If an annual certificate of compliance is issued after the inspection necessitated by the violation of the Virginia Uniform Statewide Building Code and revocation of the extended certificate of compliance, then said Residential Rental Dwelling Unit shall again be eligible for an extended certificate of compliance only after the annual certificate of compliance has expired and as of the first subsequent annual inspection when no disqualifying violations are found.

(4) Should a residential rental dwelling unit be sold, or the title thereto be otherwise transferred to another owner during term of a certificate of compliance or 48-month certificate of compliance issued for such unit, the term of such certificate shall end as of the last day of the month next following the month of transfer of ownership and the new owner shall contact the code compliance office and arrange for inspection of the unit; provided, however, that if the last inspection of the unit pursuant to this article occurred during the calendar year of transfer of ownership, the existing certificate shall not expire until the end of such calendar year.

(b) The following shall be exempt from the requirements of this article for the time periods indicated:

(1) No inspection of a newly constructed residential rental dwelling unit located in an inspection district shall be required within forty-eight (48) months of the issuance of a certificate of occupancy for such newly constructed unit. Thereafter said unit shall in all

respects become subject to the requirements of this article.

(2) All hotels, motels, inns, bed and breakfast establishments, and other similar facilities to the extent occupied by transients shall be exempt from compliance with this article.

(3) All residential rental dwelling units owned by or leased by an agency of the Commonwealth of Virginia or of the City of Williamsburg, shall be exempt from compliance with this Article so long as said dwelling units are operated by such agency in carrying out its public purpose.

Sec. 5-244. Multi-family Complexes.

(a) If a multifamily complex contains more than 10 residential rental dwelling units, in the initial and annual inspections, the code compliance administrator shall inspect no less than two units and not more than 10 percent (10%) of the residential rental dwelling units.

(b) Notwithstanding the number of residential rental dwelling units inspected, the code compliance administrator shall charge the fee authorized by this article for inspection of no more than 10 dwelling units.

(c) If the code compliance administrator determines upon inspection of the dwelling units in accordance with (a) above that there are within one or more of such units or the building housing same, violations of the Virginia Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants of such multifamily complex, the code compliance administrator may inspect as many dwelling units as he deems reasonably necessary to assure compliance with the building code in which case, the fee shall be based upon a charge per dwelling unit inspected, notwithstanding the provisions of paragraph (b) of this section.

Sec. 5-245-5-265. Reserved.

DIVISION 4. CERTIFICATE ISSUANCE, INSPECTION FEES AND ENFORCEMENT

Sec. 5-266. Issuance of Certificate; Fees.

(a) Except as provided in Section 5-244 above, there shall be a \$50.00 inspection fee for the inspection of each dwelling unit. If repairs or corrections are deemed necessary by the codes compliance administrator, and a reinspection is required, no additional fee shall be charged for the reinspection. If, however, subsequent re-inspections are required, there shall be charged an additional fee of \$50.00 per dwelling unit for each subsequent reinspection. No reinspection shall be performed, nor any certificate of compliance be issued, unless all fees have been paid.

(b) Requests for an inspection may be made by telephone; provided that the codes compliance administrator shall, in all cases, receive notice from the owner and payment of the applicable inspection fees prior to conducting any inspection required under this Article

(c) The codes compliance administrator shall issue a 48-month certificate, as provided in Sec. 5-243 hereinabove if, upon inspection, the codes compliance administrator finds that the residential rental dwelling unit does not have any disqualifying violations. The 48-month certificate of compliance may be issued immediately upon completion of an inspection in which no disqualifying violations are found.

(d) If the dwelling unit fails to comply with any one or more provisions of Virginia Uniform Statewide Building Code, and any amendments thereto, the codes compliance administrator shall furnish the owner with a written list of specific violations. Failure to list any violation shall not be deemed a waiver of such violation. Upon the completion of all corrections and repairs, the owner shall arrange a reinspection of the residential rental dwelling unit. Reinspection shall be for the purpose of determining compliance by the owner with the written list of specific violations furnished to the owner by the codes compliance administrator. However, if upon reinspection, the codes compliance administrator discovers other violations that were not listed on the written list of specific violations previously furnished to the owner, the code compliance administrator shall furnish the owner with a supplemental list of violations and shall provide the owner a reasonable opportunity to correct same. This provision, however, shall not preclude the codes compliance administrator from revoking the 48 month certificate of compliance if the subsequently discovered violations are disqualifying violations or if the non-disqualifying violations have not been corrected pursuant to Sec. 5-242 and 5-243.

Sec. 5-267. Appeals; effects.

(a) Any person aggrieved by any determination or decision of the codes compliance administrator made pursuant to this article shall have the right to appeal such determination or decision in accordance with the provisions of the Virginia Uniform Statewide Building Code, and amendments thereto.

(b) Nothing in this article shall be construed to limit, impair, alter or extend the rights and remedies of persons in their relationship of landlord and tenant as such rights and remedies exist under applicable law.

(c) Nothing in this article shall be construed to relieve or exempt any person from otherwise complying with all applicable laws, ordinances, standards and regulations pertaining to the condition of buildings and other structures.

(d) Nothing in this article shall be construed to limit the authority of the codes compliance administrator to perform housing inspections in accordance with applicable law.

Sec. 5-268. Violation; penalty; right of entry.

(a) Any person willfully failing to comply with the inspection requirements of this article or the Virginia Uniform Statewide Building Code shall be subject to the penalties established Sections 5-23 and 5-24 of this Code.

(b) Any person willfully failing to comply with the notice requirements of this article shall be subject to a Fifty (\$50.00) Dollar penalty to be assessed every thirty (30) days from the date notice is due for each property for which they fail to provide notice that they own a residential rental dwelling unit owned which is subject to this article.

(c) The remedies set forth in (a) and (b) of this section are not the exclusive remedies for non-compliance with the requirements of this article and the code enforcement administrator shall take such further actions as allowed by applicable law in order to obtain compliance with the requirements of this article including, but not limited to seeking injunctive relief under section 15.2-1432 of the Virginia Code and obtaining inspection warrants as provided in section 36-105C3 of the Virginia Code.

This ordinance shall become effective on August 22, 2004.

Adopted: August 12, 2004

Jeanne Zeidler
Mayor

Shelia Y. Crist,
Clerk of Council